

# Indiana Family and Social Services Administration

## HCBS Statewide Transition Plan



Division of Aging | Division of Disability and Rehabilitative Services | Division of Mental Health and Addiction | Office of Medicaid Policy and Planning

## IN FSSA Home and Community-Based Settings Statewide Transition Plan Newsletter

JUNE 2018

### Newsletter, Issue 8

The Indiana Family and Social Services Administration (FSSA) produces a Home and Community-Based Services (HCBS) newsletter on a biannual basis. The newsletter's purpose is two-fold:

1. To provide a modest amount of background and some additional resources about the purpose of the HCBS Statewide Transition Plan (STP).
2. To provide updates on the development of the HCBS STP rollout and the individual milestones reached by the Division of Aging (DA), the Division of Mental Health and Addiction (DMHA) and Division of Disability and Rehabilitative Services (DDRS).

Please distribute this newsletter to your agencies, organizations and networks.

### Overview of the HCBS STP key elements



### UPDATE: Statewide Transition Plan Activities Resume

*In March of 2014, the Centers for Medicare & Medicaid Services (CMS) established the HCBS Settings Final Rule (Rule), which set forth new requirements for several Medicaid authorities under which states may provide home and community-based long-term services and supports. The purpose of the rule is to ensure that members receive Medicaid HCBS in settings that are integrated in and support full access to the greater community. This includes opportunities to seek employment and work in competitive and integrated settings, engage in community life, control personal resources and receive services in the community to the same degree as individuals who do not receive HCBS. CMS expects all states to review current HCBS programs and to develop a transition plan providing an assessment, strategies and timelines for compliance with the rule. Indiana's initial STP was submitted to CMS for review and approval in December 2014. Indiana submitted a second version, in April 2016 incorporating Indiana's systemic assessment of rules, codes, policies and licensure requirements. A fourth version of the STP with technical corrections was submitted in October 2016. In response to requests from CMS, a fifth version with technical corrections was submitted to CMS which received initial approval on November 8, 2016. The technical corrections versions did not require public comment, but are available online at <http://www.in.gov/fssa/da/4917.htm>. Additionally, CMS requested further revisions to the site-specific assessments within Indiana's STP for final approval. On March 30, 2017, Indiana submitted version six of the STP to CMS for final approval. In May 2017, CMS extended the implementation date of the HCBS Settings Final Rule to March 17, 2022, to allow states additional time to come into full compliance. In August 2017, CMS requested technical corrections for Indiana's STP for consideration of final approval. CMS did not require this version to be submitted for public comment. Indiana submitted version seven of the STP to CMS on September 29, 2017. The technical corrections version is available at <http://www.in.gov/fssa/da/4917.htm>. On December 1, 2017, CMS requested technical corrections for consideration of final approval. As a result of a directive from the Secretary, Indiana paused its efforts towards becoming compliant with the Final Rule to allow all divisions an opportunity to regroup to better reflect the partnerships between FSSA, other agencies, and key stakeholders, including CMS, and to better understand how to meet our members' needs. As of May 1, 2018, all efforts have resumed and Indiana's plan is to re-submit the STP for final approval no later than October 2018.*

## FSSA Division Updates

### *Division of Aging (DA)*



Most assisted living and adult day service providers submitted their remediation plans to the Division of Aging (DA) by June of 2017. Since then CMS has issued an extension of the required compliance date from 2019 to 2022. These additional three years give states more time to complete changes to rules and waiver language. The additional time also allows greater opportunity to transition participants from settings that cannot or do not wish to remediate. That is good news for participants, providers and the state.

Additionally states are having ongoing conversations with CMS now to clarify how heightened scrutiny will work for those providers that are “presumed institutional”. CMS appears to be committed to work with the states to provide additional flexibility in implementation of the rule, particularly in the area of heightened scrutiny.

DA staff have been reviewing all the plans submitted last spring. In reviewing the plans, a couple of challenges have become obvious. As acknowledged previously, there was some inconsistency in the surveys that were done in

spring 2016 for a variety of reasons. The inconsistencies have caused the team to slow down reviews in order to validate information where possible, to avoid creating additional confusion. Also, the remediation plan template has proven to be confusing for providers and difficult to read. So, DA is working on developing a more user friendly template. When responses are sent back to providers, their plans will have been moved to the new template. Providers may also find that DA asks some additional questions in the plan response to ensure good survey information is being used.

The DA hopes to begin sending back remediation plans to non-presumed institutional providers during July 2018. Meanwhile, providers are encouraged to continue working on their remediation plans and moving towards compliance. However, since CMS has provided additional time and since the review of remediation plans has taken longer than anticipated, all plan completion dates can automatically be extended. Plans will be returned to all assisted living and adult day services providers. If corrections or changes are needed, providers will need to resubmit their plans. This includes presumed institutional providers. Any questions or concerns may be emailed to [DA.HCBSsettingsrule@fssa.in.gov](mailto:DA.HCBSsettingsrule@fssa.in.gov). Individual technical assistance calls can also be scheduled as necessary.

### *Division of Mental Health and Addiction-Adult (DMHA-A)*

#### DMHA-Adult’s Ongoing Outreach and Training for HCBS Providers



The DMHA Adult 1915(i) State Evaluation Team (SET) continues to assist providers of home and community-based services with implementation of the HCBS Statewide Transition Plan (STP). The STP will be submitted to CMS for final review and approval no later than October 2018. As CMHC providers open new provider owned, controlled, and/or operated (POCO) residential and non-residential settings, DMHA will review the assessment paperwork and make compliance determinations. DMHA received clarification from CMS on questions providers had regarding HCBS rules: A lease or resident agreement with eviction protections is not required for short term POCO residential settings that are less than 30 days; and vaping is not restricted within HCBS settings.

## **POCO Settings**

As of June 2018, 24 of the 25 CMHCs are fully compliant as POCO residential settings. Out of the 189 POCO residential settings that have been identified and assessed by DMHA-approved CMHCs, 186 POCO residential settings are fully compliant with the Final Settings Rule. DMHA has completed on-site specific assessments for CMHC POCO residential settings. Seventeen CMHC POCO residential and non-residential settings are designated as Presumed Institutional. Heightened scrutiny evidence packets (HSEPs) will be submitted to CMS for further review to support that the setting does not have institutional qualities and is fully integrated into the community.

## **Non-CMHC POCO Residential Settings**

DMHA updated the Residential Setting Screening Tool (RSST) and the DARMHA application to include non-CMHC POCO Residential Setting. For State Fiscal Year (SFY) 2019, the updated forms will allow for the correct selection of the current living situation and assessment of the corresponding HCBS residential setting.

## **Settings Requiring Modifications**

For SFY 2018, DMHA began the compliance verification visits for POCO residential and non-residential settings that required remediation of physical changes to the setting in order to be deemed fully compliant. These visits will be completed by November 2018.

## **On-going Monitoring**

Beginning March 1, 2019, an updated RSST, which will include the CMS Exploratory Questions, will be required for every application submitted. Additionally, each provider will be required to complete an on-going assessment for settings to ensure continued HCBS compliance. Based upon provider/member responses on the RSST and provider responses on the on-going assessment, a corrective action plan may be required.

Each SFY (July 1 – June 30), providers will also be required to notify DMHA of any HCBS policy and/or procedure changes that would affect HCBS compliance. DMHA will also continue to schedule annual trainings to address changes in policies, procedures and the monitoring process of the HCBS rules. Based on each provider's specific QA/QI results, DMHA will conduct further remediation activities as needed to ensure the health and welfare of the member.

Please contact the DMHA Adult 1915(i) State Evaluation Team at [dmhaadulthcb@fssa.in.gov](mailto:dmhaadulthcb@fssa.in.gov) for all matters related to compliance with the CMS HCBS Settings Final Rule requirements.

## ***Division of Mental Health and Addiction-Youth (DMHA-Y)***

### **Residential and Service Overview**

#### **Residential Requirements**

The Child Mental Health Wraparound (CMHW) services program was approved for another five years this spring, and contains information regarding DMHA Youth's transition plan. While a youth's eligibility for the program has always required that the youth reside in a compliant setting, confirmation of compliance of the setting will now be part of the application process.

Additionally, the CMHW program now states that children living in provider owned or controlled settings, which includes foster family settings, shall have the same rights and privileges to the same extent as their non-disabled peers.

#### **Service Delivery**

DMHA site coaches review each plan of care submitted to the state before a decision to approve or deny is made. Coaches review strategies which are to include, among other things, the youth and family's choice of service location. The ability of the youth and family to select from among non-disability specific settings is included.



## *Division of Disability and Rehabilitative Services (DDRS)*

### **Site-Specific Assessments**

DDRS has completed the provider assessments of settings as outlined in the STP. All non-residential day service sites completed an online self-assessment. The self-assessment was designed to identify areas where a day service site is HCBS compliant as well as to identify any gaps that would require modifications to become complaint.

Since completion of the assessments, the results have been analyzed. The Division then completed validation activities for these settings. Validation efforts for the non-residential settings were initiated in 2017 and completed at the end of September 2017. Validation included reviews of documentation such as policies, procedures and other materials as well as on site visits.

DDRS is participating in a task force that was authorized under House Bill 1102. This bill establishes a group of stakeholders to convene and develop a plan to submit to the Indiana Legislature by November of 2018 outlining the needs and supports Indiana has prioritized to effectively administer home and community based services to Medicaid waiver participants. The Task Force report intends to provide a 10 year plan for the state of Indiana. DDRS will incorporate the findings and recommendations of the Task Force within future STP updates in order to align all settings with the HCBS final rule. For more information about the Task Force, please visit <https://www.in.gov/fssa/ddrs/5455.htm>.

In addition, DDRS is transforming how Indiana provides services and supports to its citizens with intellectual and developmental disabilities by incorporating the LifeCourse Framework through the Person Centered Individualized Support Plan (PCISP). These revisions provide an opportunity to develop greater capacity to value and support people to be a part of their community while incorporating system changes that embed and address HCBS compliance questions within life domains.

The PCISP process ensures all people have the right to live, love, work, learn, play, and pursue dreams in the community. The PCISP process begins with an individual's vision for a preferred life and takes the concept of self-determination from theory to practice. The PCISP is developed annually, with reviews at least semi-annually by the Individual Support Team. For provider owned or controlled residential settings a systemic verification process has been embedded within the PCISP to ensure ongoing monitoring of HCBS compliance. You can find more information on Person-Centered Planning through the LifeCourse as well as the PCISP at <https://www.in.gov/fssa/ddrs/5437.htm>.

